

1 THE LAW OFFICES OF CHARLES D. NACHAND  
Charles D. Nachand (Bar No. 72068)  
2 Demetri Lahanas, (Bar No. 185583)  
Richard B. Hudson (Bar No. 140883)  
3 451 South Escondido Boulevard  
Escondido, California 92025  
4 (760) 741-2665 (Telephone)  
(760) 741-0396 (Facsimile)  
5

6 Attorneys for Sherill Johnston  
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9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

11 IN RE: ) Case No.: 3:08-CV-00455-W-BLM  
12 VACANT LAND LOCATED IN SAN )  
DIEGO COUNTY APNS 279-150-22 AND ) **DECLARATION OF CHARLES D.**  
13 280-140-10 ) **NACHAND IN SUPPORT OF**  
**STIPULATION FOR DISBURSEMENT**  
**OF FUNDS AND ORDER THEREON**  
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16 I, CHARLES D. NACHAND, declare as follows:

17 1. I have reviewed the Superior Court file as of May 5, 2008.

18 2. I reviewed the file in detail, and noted that it did contain the verified Petition In Re  
19 Vacant Land Located in San Diego County APNS 279-150-22 and 280-140-10.

20 3. Pursuant to that Petition and the Order of the Court contained in the records, the records  
21 reflect that Action Foreclosure deposited the sum of \$76,142.61 with the County of San Diego.  
22 Said Petition and file further reflects the Order of the Court that Petitioner Action Foreclosure is  
23 and be discharged and not required to further appear in the action, and said deposit, Order for  
24 deposit, discharge, and Order for non-appearance all occurred prior to any request for removal to  
25 Federal Court.

26 4. Said verified Petition reflects that upon foreclosure of the first deed of trust and the  
27 retention of surplus funds, Action Foreclosure provided written notice to all parties that pursuant to  
28 California Civil Code Section 2924j(d) any claim for surplus funds had to be made in writing

1 within thirty (30) days of said notice. As identified in the Petition, the only three claims received  
2 at all were from the EDD (second in position behind the IRS), the IRS, and Sherill Johnston. All  
3 were timely. No other claims were submitted.

4 5. Again, pursuant to the verified Petition, Action determined that it was unable to properly  
5 allocate the funds and therefore filed its Petition, withdrew its attorney's fees and costs, and  
6 deposited the balance of funds pursuant to a Petition filed in the Superior Court for the State of  
7 California, San Diego, North County Branch, located at 325 So. Melrose Drive, Vista, California.  
8 A copy of the Petition identifying the prior requirements, the prior claims, and the fact that no other  
9 claims were received (attachment 11b to the Petition), and the Petition and notice as sent, are  
10 attached as Exhibit 1.

11 6. A copy of the Superior Court's Order setting the hearing for March 21, 2008 in  
12 Department 12, and requiring potential claimants to file and serve their claim against surplus funds  
13 fifteen (15) days before the date of hearing is attached hereto as Exhibit 2.

14 7. Sherill Johnston filed her claim fifteen days prior to the hearing. A copy of the same is  
15 in this Court's file and reflects her claim for \$53,156.32.

16 8. Prior to the hearing date, United States filed a Notice of Removal to US Federal District  
17 Court. A copy of said Notice of Removal is in this Court's file.

18 9. On March 21, 2008, the Superior Court held its hearing as scheduled in Department 12.  
19 Pursuant to the Court's sign in sheet at that time, the only appearance thereon was for Sherill  
20 Johnston. The Court's Minute Order on that date, constituting the Order of the Court, and  
21 specifically noting that no further formal Order was required, specified that the Court had received  
22 the Notice of Removal of state action to Federal Court brought by the United States Attorney's  
23 Office, and the Court effected the requested removal and directed the Clerk of the Superior Court  
24 to prepare and transmit a copy of the pleadings to the US Federal District Court. A copy of said  
25 Order and sign-in sheet, both true and correct copies of the originals which appear on yellow paper  
26 in the Superior Court file are attached hereto as Exhibit 3.

27 10. I reviewed the notations and further made specific inquiry of the Clerk of the Court  
28 providing the file. I was given the one and only file that is and has been created in this matter in

1 the Superior Court.

2 11. I reviewed the file in detail. Other than the Petition filing by Pite Duncan, LLP through  
3 and by Laurel I. Handley, on behalf of Petitioner Action Foreclosure, the responsive pleadings filed  
4 by the Law Offices of Charles Nachand and Charles D. Nachand (declarant herein) for  
5 respondent/claimant Sherill Johnston, and the Notice of Removal, and supporting materials filed  
6 by Karen P. Hewitt, United States Attorney, Tom Stahl, Assistant United State Attorney Chief,  
7 Civil Division, by Lauren M. Castaldi, Trial Attorneys, Tax Division, U.S. Department of Justice,  
8 for removal, there are no other appearances, parties, filings or materials (other than those of the  
9 California Superior Court itself, and a single correspondence placed in the file from the US Federal  
10 District Court dated April 25, 2008) in the Superior Court files.

11 12. The United States of America made its claim, filed with this Court. No other claims  
12 have been made. No other parties have appeared. There are NO references, notes or indications of  
13 the contact or appearance of any other claimant or party.

14 13. As represented to the Court and to this declarant, the EDD was in contact with counsel  
15 for Petitioner, and indicated that they would not be making a claim. In discussions with counsel  
16 for the United States of America, researching the law and obtaining background records therefore,  
17 the date of assessment appears to be the controlling date as between the competing governmental  
18 entities, the United States of America assessed their claims prior to and earlier than the EDD, and  
19 the assessed claims of the United States of America are in excess of the total surplus funds, (as  
20 well as the lesser amount of the share attributable to their tax debtor) and preclude any possible  
21 claim by the EDD to these funds.

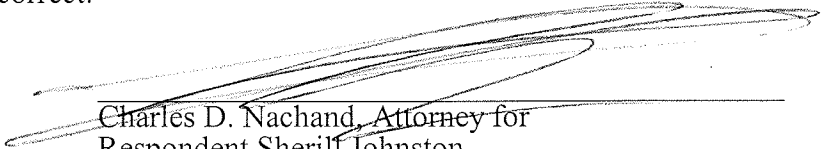
22 14. I have been advised that the EDD has disclaimed any interest in the funds and such  
23 disclaimer is provided with the Stipulation in this matter.

24 15. I have full written authority from Respondent Sherill Johnston to accept less than the  
25 \$53,000 claim submitted, and in fact have the authority to accept the \$50,761.74 which is available  
26 pursuant to the deposit, and I have attached said written authority as Exhibit 4. Said sum is  
27 accepted and it is so reflected in the stipulation.

28 // // //

1           16. The parties to the stipulation are entitled to and Order and Judgment in their favor,  
2 distributing the funds between them. The stipulation creates a proper and allowable distribution  
3 (allocated amounts), and the proposed Order in this matter is proper, within the Court's jurisdiction  
4 and supported by the law and the facts in this suit. It is dispositive of all claims in this matter.

5           Executed this 22<sup>nd</sup> day of May, 2008 at Escondido, California. I declare under penalty of  
6 perjury that the foregoing is true and correct.

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9 Charles D. Nachand, Attorney for  
10 Respondent Sheril Johnston  
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**United State District Court, Southern District of California; Case #. 3:08-CV-00455-W-BLM**  
In Re: Vacant Land Located in San Diego County, APNS 279-150-22 & 280-140-10

**TABLE OF CONTENTS TO DECLARATION OF CHARLES D. NACHAND IN SUPPORT  
OF STIPULATION FOR DISBURSEMENT OF FUNDS AND ORDER THEREON**

1. Notice of Petition to Superior Court to Deposit Surplus Funds
2. Notice of Hearing Set by the Clerk of the Court Pursuant to  
Civil Code Section 2925j(d)
3. Minute Order dated 12/26/07; Superior Court Sign-In Sheet dated 3/21/08
4. Declaration and Authorization of Sherill Johnston

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Exhibit 1

JOHN D. DUNCAN (CA SBN 179560)  
 PETER J. SALMON (CA SBN 174386)  
 LAUREL I. HANDLEY (CA SBN 231249)  
 PITE DUNCAN, LLP  
 525 E. Main Street  
 P.O. Box 12289  
 El Cajon, CA 92022-2289  
 Telephone: (619) 590-1300  
 Facsimile: (619) 590-1385

Attorneys for Petitioner Action Foreclosure Services, Inc.

SUPERIOR COURT OF CALIFORNIA  
 COUNTY OF SAN DIEGO - NORTH COUNTY

IN RE:

VACANT LAND LOCATED IN SAN  
 DIEGO COUNTY APNS 279-150-22 AND  
 280-140-10

Case No.:

Unlimited Jurisdiction

NOTICE OF PETITION TO SUPERIOR  
 COURT TO DEPOSIT SURPLUS FUNDS

[Amount Demanded Exceeds \$25,000.00]

To all interested persons, please take notice that Action Foreclosure Services, Inc., is making an application to the Superior Court of California, County of San Diego - North County, located at 325 South Melrose, Vista, CA 92083, seeking an order to the Clerk of the Court to deposit surplus funds in the amount of \$76,142.61 with the County Treasurer. All potential claimants are hereby notified that all claims for the funds must be filed with said court within thirty (30) days from the date of this Notice as required by California Civil Code section 2924j(d).

Upon receipt of conformed copies from the court, Pite Duncan, LLP, will send a Notice of Case Number Assignment.

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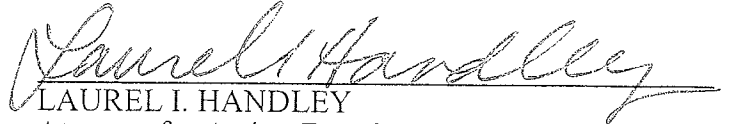
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1 You will be notified by the Clerk of the Superior Court as to any future hearing dates and  
2 where to submit any claim for funds. The phone number of the court is (760) 726-9595.

3  
4 Dated: 12/4/07

PITE DUNCAN, LLP

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7 LAUREL I. HANDLEY  
8 Attorney for Action Foreclosure Services, Inc.

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO - NORTH COUNTY

IN RE:

VACANT LAND LOCATED IN SAN  
DIEGO COUNTY APNS 279-150-22 AND  
280-140-10

Case No.:

UnLimited Jurisdiction

ORDER TO DEPOSIT SURPLUS FUNDS

[Amount Demanded Exceeds \$25,000.00]

The Court, having reviewed the Petition filed herein and upon the application of the Trustee to allow the Clerk of the Court to deposit funds with the County Treasurer,

IT IS ORDERED THAT:

The Clerk shall receive the sum of \$76,142.61, made payable to Superior Court of California, and shall deposit said amount with the County Treasurer, minus any reasonable fee that the Clerk may charge;

IT IS FURTHER ORDERED THAT the Petitioner, Action Foreclosure Services, Inc., as Trustee, is hereby discharged of further responsibility for the disbursement of sale proceeds pursuant to Civil Code section 2924j(c) and is not required to make further appearances in this matter; and

IT IS FURTHER ORDERED THAT within 90 days after deposit, the Court shall consider all claims filed at least 15 days before the date on which the hearing is scheduled by the Court pursuant to Civil Code section 2924j(d). The Clerk shall schedule and serve written notice of the hearing by first-class mail on all claimants identified in Petitioner's declaration at the addresses specified therein. The Petitioner has supplied the Court with pre-addressed envelopes for the Clerk's

1 convenience.

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3 Dated: \_\_\_\_\_

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JUDGE OF THE SUPERIOR COURT

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address) LAUREL I. HANDLEY (CASBN 231249) PITE DUNCAN, LLP 525 E. MAIN STREET P.O. BOX 12289 EL CAJON, CA 92020 TELEPHONE NO.: (619) 590-1300 FAX NO. (Optional): (619) 590-1385 E-MAIL ADDRESS (Optional): LHANDLEY@PITEDUNCAN.COM ATTORNEY FOR (Name): ACTION FORECLOSURE SERVICES, INC.	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 325 SOUTH MELROSE MAILING ADDRESS: CITY AND ZIP CODE: VISTA, CA 92083 BRANCH NAME: NORTH COUNTY	
IN RE (ADDRESS OF REAL PROPERTY): VACANT LAND LOCATED IN SAN DIEGO COUNTY APNS 279-150-22 AND 280-140-10	
PETITION AND DECLARATION REGARDING UNRESOLVED CLAIMS AND DEPOSIT OF UNDISTRIBUTED SURPLUS PROCEEDS OF TRUSTEE'S SALE	
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount deposited <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)	CASE NUMBER.

1. Petitioner (name): ACTION FORECLOSURE SERVICES, INC. is the trustee under the Deed of Trust described in items 2 and 3 below.

#### The Deed of Trust

2. The Deed of Trust encumbered the real property commonly known as (describe): ASSESSORS PARCEL NUMBERS 279-150-22 AND 280-140-10.

(the "property") and legally described ☒ in Attachment 2 ☐ as follows:

3. The Deed of Trust was

a. Executed by (name): DENNY AND SHERILL JOHNSTON, ET AL as trustor.

b. Executed on (date): APRIL 24, 2002

c. Recorded:

(1) Date: APRIL 26, 2002

(2) County: SAN DIEGO

(3) Instrument number: 2002-0355530

IN RE: VACANT LAND LOCATED IN SAN DIEGO COUNTY APNS 279-150-22 AND 280-140-10

CASE NUMBER:

#### The Trustee's Sale, Surplus Proceeds, and Notice to Potential Claimants

4. The property was the subject of a trustee's sale that was held on (date): MAY 4, 2007
5. A trustee's sale guarantee was prepared for the trustee's sale. (A copy of the trustee's sale guarantee must be attached as Attachment 5.)
6. The total sale price of the property was: \$ 302,100.00
7. After payment of the amounts required by Civil Code section 2924k(a)(1)-(2), there were surplus proceeds from the trustee's sale available to potential claimants in the total amount of: \$ 78,137.61
8. Within 30 days after the trustee's sale, the trustee sent written notice under Civil Code section 2924j(a) to all persons with a recorded interest in the real property as of the date immediately prior to the trustee's sale who would be entitled to notice. The names and addresses of all persons sent notice under Civil Code section 2924j(a) are as follows:

☒ Continued on Attachment 8.

#### The Claims

9. The trustee has received a total of (specify number): 3 written claims from potential claimants.
10. The trustee has exercised due diligence to determine the priority of the written claims received by the trustee to the trustee's sale surplus proceeds from the persons identified in item 8 to whom notice was sent.
11. The trustee submits this declaration under Civil Code section 2924j(c) for the following reason:
  - a. ☐ After due diligence, the trustee is unable to determine the priority of the written claims received by the trustee to the trustee's sale surplus proceeds. (If this reason applies, describe the problem of determining priorities in Attachment 11a.)
  - b. ☒ The trustee has determined that there is a conflict between potential claimants to the surplus proceeds. (If this reason applies, identify the claimants and describe the conflict in Attachment 11b.)
12. The trustee provides the following additional information relevant to the identity, location, priority of potential claimants, and the conflict of claims:
 

CHARLES D. NACHAND THE LAW OFFICES OF CHARLES D. NACHAND 451 SOUTH ESCONDIDO BOULEVARD ESCONDIDO, CA 92025-4813	EMPLOYMENT DEVELOPMENT DEPARTMENT 800 CAPITOL MALL MIC 92 H SACRAMENTO, CA 94230
--	--

☐ Continued on Attachment 12.

#### Notice of Intent to Deposit Funds and Proof of Service

13. The trustee has provided written notice to all persons with a recorded interest in the property who would be entitled to notice under Civil Code section 2924b(b)-(c). The notice includes the following information:
  - a. The trustee intends to deposit funds from the trustee's sale with the clerk of the court.
  - b. A claim for funds must be filed with the court within 30 days from the date of notice.
  - c. The address of the court in which the funds are to be deposited and a telephone number for obtaining further information.

(Proof of Service of the notice on all persons entitled to notice under Civil Code section 2924j(d) must be attached to this declaration as Attachment 13.)

IN RE: VACANT LAND LOCATED IN SAN DIEGO COUNTY APNS 279-150-22 AND 280-140-10

CASE NUMBER:

### Deposit

#### 14. Distributions

The trustee has distributed the total amount of: \$ 0.00

to the following claimants based on their written claims:

Name of claimant:

Amount:

0.00  
0.00  
0.00  
0.00  
0.00  
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0.00

☐ Continued on Attachment 14.

#### 15. Trustee's Fees and Expenses

The trustee has incurred reasonable fees and expenses totaling: \$ 1,635.00. These fees and expenses are recoverable under Civil Code section 2924k(a)(1) and (b) and are described ☐ in Attachment 15 ☒ as follows (specify):

TRUSTEE'S FEES AND COSTS.....\$125.00

ATTORNEY'S FEES AND COSTS.....\$1,510.00

#### 16. Deposit

The amount to be deposited is calculated as follows:

a. Trustee's sale proceeds .....	\$	302,100.00
b. Debt to foreclosing creditor .....	\$	223,962.39
c. Available surplus proceeds (a minus b) .....	\$	78,137.61
d. Claims paid by trustee (from item 14) .....	\$	0.00
e. Trustee's fees and expenses (from item 15) .....	\$	1,635.00
f. Remaining surplus proceeds (c minus (d plus e)) .....	\$	76,502.61
g. Filing fee .....	\$	360.00
h. Deposit (f minus g) .....	\$	76,142.61

(If the trustee is represented by an attorney, the attorney's signature follows):

Date: 12/4, 2007

LAUREL I. HANDLEY

(TYPE OR PRINT NAME OF ATTORNEY)

  
(SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: , 2007

(TYPE OR PRINT NAME OF TRUSTEE)

(SIGNATURE OF TRUSTEE)

IN RE: VACANT LAND LOCATED IN SAN DIEGO COUNTY APNS 279-150-22 AND 280-140-10

BASE NUMBER:

### Deposit

#### 14. Distributions

The trustee has distributed the total amount of: \$ 0.00

to the following claimants based on their written claims:

Name of claimant:

Amount:

0.00  
0.00  
0.00  
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0.00

☐ Continued on Attachment 14.

#### 15. Trustee's Fees and Expenses

The trustee has incurred reasonable fees and expenses totaling: \$ 1,635.00. These fees and expenses are recoverable under Civil Code section 2924k(a)(1) and (b) and are described ☐ in Attachment 15 ☒ as follows (specify):

TRUSTEE'S FEES AND COSTS.....\$125.00  
ATTORNEY'S FEES AND COSTS.....\$1,510.00

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d. Claims paid by trustee (from item 14) .....	\$	0.00
e. Trustee's fees and expenses (from item 15) .....	\$	1,635.00
f. Remaining surplus proceeds (c minus (d plus e)) .....	\$	76,502.61
g. Filing fee .....	\$	360.00
h. Deposit (f minus g) .....	\$	76,142.61

(If the trustee is represented by an attorney, the attorney's signature follows):

Date: , 2007

LAUREL I. HANDLEY

(TYPE OR PRINT NAME OF ATTORNEY)

(SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: December 7 , 2007

Action Foreclosure Services, Inc.

(TYPE OR PRINT NAME OF TRUSTEE)

by: James M. Allen, Jr., Chief Financial Officer

(SIGNATURE OF TRUSTEE)

## **ATTACHMENT 2**

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

**EXHIBIT "A"**  
**(LEGAL DESCRIPTION)**

PARCEL 1:

THE NORTHEAST OF THE SOUTHEAST QUARTER AND THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 13 SOUTH RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF.

PARCEL 2:

THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF.

NOTE: THE LATEST TAX BILL FROM THE SAN DIEGO COUNTY TAX COLLECTOR SHOWS THE SITUS ADDRESS OF SAID LAND AS VACANT LAND.

ASSESSORS PARCEL NUMBER: 279-150-22



## **ATTACHMENT 5**

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

## TRUSTEE'S SALE GUARANTEE

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE.

**North American Title Insurance**  
A CORPORATION, HEREIN CALLED THE COMPANY,

GUARANTEES

AS SHOWN IN ITEM 1 OF SCHEDULE A, HEREIN CALLED THE ASSURED, AGAINST LOSS NOT EXCEEDING THE LIABILITY AMOUNT STATED ABOVE WHICH THE ASSURED SHALL SUSTAIN BY REASON OF ANY INCORRECTNESS IN THE ASSURANCE WHICH THE COMPANY HEREBY GIVES THAT, ACCORDING TO THE PUBLIC RECORDS, ON THE DATE STATED BELOW,

1. THE TITLE TO THE HEREIN DESCRIBED ESTATE OR INTEREST WAS VESTED IN THE VESTEE NAMED, SUBJECT TO THE MATTERS SHOWN AS EXCEPTIONS HEREIN, WHICH EXCEPTIONS ARE NOT NECESSARILY SHOWN IN THE ORDER OF THEIR PRIORITY.
2. THE NAMES AND ADDRESSES OF PERSONS WHO HAVE RECORDED REQUESTS, AS PROVIDED BY SECTION 2924B(A) AND (D) OF THE CALIFORNIA CIVIL CODE, FOR A COPY OF NOTICE OF DEFAULT AND A COPY OF NOTICE OF SALE ARE AS SHOWN HEREIN;
3. THE NAMES AND ADDRESSES OF ADDITIONAL PERSONS, WHO, AS PROVIDED BY SECTION 2924B(C)(1) AND (2) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF DEFAULT AND A COPY OF NOTICE OF SALE ARE AS SHOWN HEREIN;
4. THE NAMES AND ADDRESSES OF STATE TAXING AGENCIES WHICH, AS PROVIDED BY SECTION 2924B(C)(3) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF SALE, ARE AS SHOWN HEREIN, AND;
5. THE ADDRESSES OF THE INTERNAL REVENUE SERVICE WHICH, AS PROVIDED BY SECTION 2924B(C)(4) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF SALE, ARE AS SHOWN HEREIN, AND;
6. THE HEREIN DESCRIBED LAND IS LOCATED IN THE CITY OR JUDICIAL DISTRICT STATED HEREIN AND, IF DESIGNATED, THE NEWSPAPER OR NEWSPAPERS LISTED HEREIN QUALIFY FOR PUBLICATION OF NOTICE PURSUANT TO SECTION 2924F OF THE CALIFORNIA CIVIL CODE.

DATED: OCTOBER 18, 2006

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

**SCHEDULE A**

YOUR REFERENCE: 2006623

DATED: OCTOBER 18, 2006 AT 8:00 A. M.

LIABILITY: \$200,000.00

PREMIUM: \$672.00

1. NAME OF ASSURED:

TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY

BENEFICIARY: ROBERT A. DAVIS AND MARY CLAIRE DAVIS, AS TRUSTEE, OR THE SUCCESSOR TRUSTEE, OF THE DAVIS FAMILY TRUST DATED MAY 29, 2003

2. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS GUARANTEE IS:

A FEE

3. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

DENNY JOHNSTON AND SHERILL JOHNSTON, HUSBAND AND WIFE, AS JOINT TENANTS AS TO AN UNDIVIDED 1/3 INTEREST AND DEREK SPIKER AND NICOLE SPIKER, HUSBAND AND WIFE, AS JOINT TENANTS AS TO AN UNDIVIDED 1/3 INTEREST AND MICHAEL SPIKER AND NANCY SPIKER, HUSBAND AND WIFE, AS JOINT TENANTS AS TO AN UNDIVIDED 1/3 INTEREST, AS TENANTS IN COMMON

4. THE LAND REFERRED TO IN THIS GUARANTEE IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO, AND IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

### SCHEDULE B

#### EXCEPTIONS:

1. GENERAL AND SPECIAL PROPERTY TAXES, AND ANY ASSESSMENTS COLLECTED WITH TAXES, INCLUDING UTILITY ASSESSMENTS, FOR THE FISCAL YEAR 2006/2007.

TOTAL AMOUNT:	\$1,324.08
FIRST INSTALLMENT:	\$662.04
PENALTY:	\$66.20 (AFTER DECEMBER 10, 2006)
SECOND INSTALLMENT:	\$662.04
PENALTY:	\$76.20 (AFTER APRIL 10, 2007)
EXEMPTION:	\$NONE
CODE NO.:	65023
PARCEL NO.:	279-150-22

- 1A. SAID PROPERTY HAS BEEN DECLARED TAX-DEFAULTED FOR NON-PAYMENT OF DELINQUENT TAXES FOR THE FISCAL YEAR 2004-2006.

AMOUNT TO REDEEM PRIOR TO OCTOBER 31, 2006: \$2,378.31  
AMOUNT TO REDEEM PRIOR TO NOVEMBER 30, 2006: \$2,407.15

PARCEL NO.: 279-150-22

THE ABOVE MATTER AFFECTS THE HEREIN DESCRIBED PROPERTY AND OTHER PROPERTY.

- 1B. GENERAL AND SPECIAL PROPERTY TAXES, AND ANY ASSESSMENTS COLLECTED WITH TAXES, INCLUDING UTILITY ASSESSMENTS, FOR THE FISCAL YEAR 2006/2007.

TOTAL AMOUNT:	\$1,764.74
FIRST INSTALLMENT:	\$882.37
PENALTY:	\$88.23 (AFTER DECEMBER 10, 2006)
SECOND INSTALLMENT:	\$882.37
PENALTY:	\$98.23 (AFTER APRIL 10, 2007)
EXEMPTION:	\$NONE
CODE NO.:	65023
PARCEL NO.:	280-140-10

- 1C. SAID PROPERTY HAS BEEN DECLARED TAX-DEFAULTED FOR NON-PAYMENT OF DELINQUENT TAXES FOR THE FISCAL YEAR 2004-2006.

AMOUNT TO REDEEM PRIOR TO OCTOBER 31, 2006: \$3,158.16  
AMOUNT TO REDEEM PRIOR TO NOVEMBER 30, 2006: \$3,196.60

PARCEL NO.: 280-140-10

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

- 1D. THE LIEN OF SUPPLEMENTAL TAXES, IF ANY, ASSESSED PURSUANT TO THE PROVISIONS OF CHAPTER 3.5 (COMMENCING WITH SECTION 75) OF THE REVENUE AND TAXATION CODE OF THE STATE OF CALIFORNIA.
2. THE FACT THAT THE PUBLIC ROAD DOES NOT DISCLOSE THAT THE OWNERSHIP OF SAID LAND INCLUDES RIGHTS OF ACCESS TO OR FROM ANY PUBLIC STREET. NOTWITHSTANDING THE INSURING CLAUSES OF THE POLICY, THE COMPANY DOES NOT INSURE AGAINST LOSS OR DAMAGE BY REASON OF A LACK OF A RIGHT OF ACCESS TO AND FROM THE LAND.

3. A DEED OF TRUST TO SECURE AN INDEBTEDNESS IN THE AMOUNT SHOWN BELOW AND ANY OTHER OBLIGATIONS SECURED THEREBY:

AMOUNT: \$192,223.40  
DATED: APRIL 24, 2002  
TRUSTOR: DENNY JOHNSTON AND SHERILL JOHNSTON, HUSBAND AND WIFE, AS JOINT TENANTS AS TO AN UNDIVIDED 1/3 INTEREST AND DEREK SPIKER AND NICOLE SPIKER, HUSBAND AND WIFE AS TO AN UNDIVIDED 1/3 INTEREST AND MICHAEL SPIKER AND NANCY SPIKER, HUSBAND AND WIFE, AS JOINT TENANTS, AS TO AN UNDIVIDED 1/3 INTEREST AS TENANTS IN COMMON  
TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY, A CALIFORNIA CORPORATION  
BENEFICIARY: ROBERT ALLEN DAVIS, A MARRIED MAN  
RECORDED: APRIL 26, 2002 AS INSTRUMENT NO. 2002-0355530, OF OFFICIAL RECORDS

AN ASSIGNMENT OF THE BENEFICIAL INTEREST UNDER SAID DEED OF TRUST NAMES:

AS ASSIGNEE: ROBERT A. DAVIS AND MARY CLAIRE DAVIS, AS TRUSTEE, OR THE SUCCESSOR TRUSTEE, OF THE DAVIS FAMILY TRUST DATED MAY 29, 2003  
RECORDED: OCTOBER 28, 2003 AS INSTRUMENT NO. 2003-1310281, OF OFFICIAL RECORDS

A NOTICE OF DEFAULT UNDER THE TERMS OF SAID DEED OF TRUST:

EXECUTED BY ACTION FORECLOSURE SERVICES, INC., A CALIFORNIA CORPORATION  
RECORDED OCTOBER 18, 2006 AS INSTRUMENT NO. 06-0739357, OF OFFICIAL RECORDS

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

4. A DEED OF TRUST TO SECURE AN INDEBTEDNESS IN THE AMOUNT SHOWN BELOW AND ANY OTHER OBLIGATIONS SECURED THEREBY:

AMOUNT: \$409,190.00  
DATED: JANUARY 7, 2005  
TRUSTOR: DENNY L. JOHNSTON  
TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY, A CALIFORNIA CORPORATION  
BENEFICIARY: SHERILL LYNN JOHNSTON  
RECORDED: FEBRUARY 3, 2005 AS INSTRUMENT NO. 2005-0092417, OF OFFICIAL RECORDS

5. AN ABSTRACT OF JUDGMENT IN THE AMOUNT SHOWN BELOW AND ANY OTHER AMOUNTS DUE.

ENTERED: 06/23/06  
AMOUNT: \$5,110.44  
DEBTOR: DEREK M. SPIKER  
CREDITOR: TARGET NATIONAL BANK  
COUNTY: SAN DIEGO  
COURT: SUPERIOR  
CASE NO.: IE032007  
RECORDED: AUGUST 4, 2006 AS INSTRUMENT NO. 2006-0554180, OF OFFICIAL RECORDS

6. A TAX LIEN FOR THE AMOUNT SHOWN AND ANY OTHER AMOUNTS DUE, IN FAVOR OF THE TAXING AGENCY SHOWN BELOW:

TAXING AGENCY: STATE OF CALIFORNIA EMPLOYMENT DEVELOPMENT DEPARTMENT  
AMOUNT SHOWN: \$51,778.37  
CERTIFICATE OR SERIAL NO.: M 377579  
TAXPAYER: MICHAEL J. SPIKER, INDIVIDUALLY AND/OR AS CEO/PRESIDENT OF, SPIKER ELECTRIC, INC.  
RECORDED: JANUARY 6, 2006 AS INSTRUMENT NO. 2006-0013911, OF OFFICIAL RECORDS

7. A TAX LIEN FOR THE AMOUNT SHOWN AND ANY OTHER AMOUNTS DUE, IN FAVOR OF THE TAXING AGENCY SHOWN BELOW:

TAXING AGENCY: DEPARTMENT OF THE TREASURY – INTERNAL REVENUE SERVICE  
AMOUNT SHOWN: \$151,155.77  
CERTIFICATE OR SERIAL NO.: 294549406  
TAXPAYER: MICHAEL J SPIKER  
RECORDED: JUNE 9, 2006 AS INSTRUMENT NO. 2006-0411776, OF OFFICIAL RECORDS

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

8. A TAX LIEN FOR THE AMOUNT SHOWN AND ANY OTHER AMOUNTS DUE, IN FAVOR OF THE TAXING AGENCY SHOWN BELOW:

TAXING AGENCY:	DEPARTMENT OF THE TREASURY – INTERNAL REVENUE SERVICE
AMOUNT SHOWN:	\$151,155.77
CERTIFICATE OR	
SERIAL NO.:	294549506
TAXPAYER:	NANCY S SPIKER
RECORDED:	JUNE 9, 2006 AS INSTRUMENT NO. 2006-0411777, OF OFFICIAL RECORDS

9. ANY BANKRUPTCY PROCEEDINGS THAT ARE NOT DISCLOSED BY THE ACTS THAT WOULD AFFORD NOTICE AS TO SAID LAND, PURSUANT TO TITLE 11, U.S.C. 549(C) OF THE BANKRUPTCY REFORM ACT OF 1978, AS AMENDED.

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

**SCHEDULE C**  
**INFORMATION FOR TRUSTEE**

RELATIVE TO THE DEED OF TRUST SHOWN AS ITEM 3 OF THIS GUARANTEE:

1. TRUSTEE MUST OBSERVE THE REQUIREMENTS OF SECTION 2924B OF THE CALIFORNIA CIVIL CODE AS TO THE NOTICES TO BE SENT TO THE TRUSTORS. IF ADDRESSES OF THE TRUSTORS ARE NOT SHOWN IN SAID TRUST DEED, THIS CODE SECTION STATES THE PROCEDURE TO BE FOLLOWED AS TO NOTICE IN SUCH CASES. NAMES AND ADDRESSES OF TRUSTORS (IF ANY) SHOWN IN SAID DEED OF TRUST.

✓ DENNY JOHNSTON  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

✓ SHERILL JOHNSTON  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

✓ DEREK SPIKER  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

✓ NICOLE SPIKER  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

✓ MICHAEL SPIKER  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

✓ NANCY SPIKER  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

2. THE NAMES AND ADDRESSES OF PERSONS WHO HAVE RECORDED REQUESTS, AS PROVIDED BY SECTION 2924B(A) AND (D) OF THE CALIFORNIA CIVIL CODE, FOR A COPY OF NOTICE OF DEFAULT AND FOR A COPY OF NOTICE OF SALE ARE:

NONE.



CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

3. NAMES AND ADDRESSES OF ADDITIONAL PERSONS WHO, AS PROVIDED BY SECTION 2924B(C)(1) AND (2) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF DEFAULT AND A COPY OF NOTICE OF SALE ARE:

✓ SHERILL LYNNE JOHNSTON  
2625 LAS PALMAS AVENUE  
ESCONDIDO, CA 92025  
REGARDING ITEM NO. 4

✓ DENNY JOHNSTON  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

✓ SHERILL JOHNSTON  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

✓ DEREK SPIKER  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

✓ NICOLE SPIKER  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

✓ MICHAEL SPIKER  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

✓ NANCY SPIKER  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

4. NAMES AND ADDRESSES OF STATE TAXING AGENCIES WHICH, AS PROVIDED BY SECTION 2924B(C)(3) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF SALE ARE:

✓ STATE OF CALIFORNIA  
EMPLOYMENT DEVELOPMENT DEPARTMENT  
LIEN GROUP, MIC 92G  
P.O. BOX 826880  
SACRAMENTO, CALIFORNIA 94280-0001  
REGARDING ITEM NO. 6

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

5. THE ADDRESSES OF THE INTERNAL REVENUE SERVICE WHICH, AS PROVIDED BY SECTION 2924B(C)(4) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF SALE ARE:

LAGUNA NIGUEL DISTRICT  
INTERNAL REVENUE SERVICE  
S:C:F:TS:W:AREA 14:GROUP 15  
24000 AVILA ROAD, M/S 5905  
LAGUNA NIGUEL, CA 92677-09608

ATTN: ADVISORY UNIT  
949-360-2364 OR 949-360-2427

C. RIPP 949-389-4140  
U. CLARA 949-389-4132

- AND -

LOS ANGELES DISTRICT/AREA 16

INTERNAL REVENUE SERVICE  
STOP 5021/ADVISORY UNIT 1/RM 4062  
300 N. LOS ANGELES STREET  
LOS ANGELES, CA 90012

ATTN: TECHNICAL SUPPORT TERRITORY MANAGER

G. LAM 213-576-4584  
CONTRACT PERSON: L. A. KIRKWOOD 213-576-4456  
REGARDING ITEM NO. 7 AND 8

6. THE NAMES OF PERSONS AND ADDRESSES DISCLOSED BY THE RECORDS EXAMINED, OTHER THAN THOSE TO WHOM NOTICE IS REQUIRED BY SECTION 2924B OF THE CALIFORNIA CIVIL CODE TO BE DIRECTED, WHO MIGHT BE INTERESTED IN RECEIVING A COPY OF NOTICE OF DEFAULT AND A COPY OF NOTICE OF SALE ARE:

TARGET NATIONAL BANK  
C/O ESKANOS & ADLER  
DONALD R. STEBBINS/JANET L. BROWN  
KURTISS A. JACOBS/JEROME M. YALON 218950/84204  
2325 CLAYTON ROAD,  
CONCORD, CA 94520  
REGARDING ITEM NO. 5

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

7. CITY IN WHICH SAID LAND IS LOCATED: FALLBROOK  
IF NOT IN CITY, JUDICIAL DISTRICT IN WHICH SAID LAND IS LOCATED:

8. LEGAL PUBLICATIONS:

ESCONDIDO NEWS

PUBLISHED: MONDAY THROUGH FRIDAY

ATTENTION IS CALLED TO SERVICEMEMBERS CIVIL RELIEF ACT OF 1940 AND AMENDMENTS THERETO AND THE MILITARY RESERVIST RELIEF ACT OF 1991 (SEC 800 TO 810, CALIFORNIA MILITARY AND VETERANS CODE) WHICH CONTAIN INHIBITIONS AGAINST THE SALE OF LAND UNDER A DEED OF TRUST IF THE OWNER IS ENTITLED TO THE BENEFITS OF SAID ACTS.

ATTENTION IS CALLED TO THE FEDERAL TAX LIEN ACT OF 1966 WHICH, AMONG OTHER THINGS, PROVIDES FOR THE GIVING OF WRITTEN NOTICE OF SALE IN A SPECIFIED MANNER TO THE SECRETARY OF TREASURY OR HIS DELEGATE AS A REQUIREMENT FOR THE DISCHARGE OR DIVESTMENT OF A FEDERAL TAX LIEN IN A NON-JUDICIAL SALE, AND ESTABLISHES WITH RESPECT TO SUCH A LIEN A RIGHT IN THE UNITED STATES TO REDEEM THE PROPERTY WITHIN A PERIOD OF 120 DAYS FROM THE DATE OF ANY SUCH SALE.

COUNTERSIGNED:



AUTHORIZED SIGNATORY

ORDER NO. 4379835-65

**Privacy Policy Notice  
(as of July 1, 2001)**

We at the North American Title family of companies take your privacy very seriously. We do not share your private information with anyone except as necessary to complete your real property, title insurance and escrow transaction.

**OUR PRIVACY POLICIES AND PRACTICES**

1. Information we collect and sources from which we collect it: We collect nonpublic personal information from you from the following sources:

- \* Information we receive from you on applications or other forms.
- \* Information about your transactions with us, our affiliates or others.
- \* Information from non-affiliated third parties relating to your transaction.

"Nonpublic personal information" is nonpublic information about you that we obtain in connection with providing a product or service to you.

2. What information we disclose and to whom we disclose it: We do not disclose any nonpublic personal information about you to either our affiliates or non-affiliates without your express consent, except as permitted or required by law. We may disclose the nonpublic personal information we collect, as described above, to persons or companies that perform services on our behalf regarding your transaction. "Our affiliates" are companies with which we share common ownership and which offer real property, title insurance, or escrow services.

3. Our security procedures: We restrict access to your nonpublic personal information and only allow disclosures to persons and companies as permitted or required by law to assist in providing products or services to you. We maintain physical, electronic, and procedural safeguards to protect your nonpublic personal information.

4. Your right to access your personal information: You have the right to review your personal information that we record about you. If you wish to review that information, please contact your local North American Title office and give us a reasonable time to make that information available to you. If you believe any information is incorrect, notify us, and if we agree, we will correct it. If we disagree, we will advise you in writing why we disagree.

5. Customer acknowledgement: Your receipt of a copy of the preliminary report, commitment, your policy of insurance, or escrow documents, accompanied by this Notice will constitute your acknowledgement of receipt of this Privacy Policy Notice.

North American Title may also share your information with an insurance institution, credit reporting agency, insurance regulatory authority, law enforcement, other governmental authority, actuary, or other research organization for purposes of detecting or preventing fraud, crimes, or misrepresentations in connection with an insurance or real estate transaction, resolving claims or service disputes, investigating suspected illegal or unlawful activities, or for conducting actuarial or research studies.

## **ATTACHMENT 8**

## Declaration of Mailing

Trustee's Sale No. 2006623

I, JAMES ALLEN *JA*, declare:

Date: 05/15/2007

That I am an officer, agent, or employee of ACTION FORECLOSURE SERVICES, INC.

Mailing: ~~Sale Mail~~ *Surplus*

whose business address is 888 PROSPECT STREET, SUITE 201, LA JOLLA, CA 92037

Page: 1 *Proceed*

I am over the age of eighteen years; On 05/15/2007 by Certified mail, enclosed in a sealed envelope with postage

fully prepaid, I deposited in the United States Post Office at SAN DIEGO

notices, a true and correct copy of which is hereunto attached and made part hereof, addressed to the following:

Number of Article	Name of Addressee, Street, and Post Office Address	Cert. Fee	R.R. Fee
71006309264040366177	DENNY JOHNSTON C/O TAYLOR PIPELINE, INC. 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366184	DENNY JOHNSTON 44913 SILVER ROSE STREET TEMECULA, CA 92592-5541	\$4.36	\$1.85
71006309264040366191	DEREK SPIKER 1855 RAINBOW VALLEY BLVD FALLBROOK, CA 92028	\$4.36	\$1.85
71006309264040366207	DEREK SPIKER 19773 RAMONA TRAILS DRIVE RAMONA, CA 92065	\$4.36	\$1.85
71006309264040366214	MICHAEL SPIKER 1855 RAINBOW VALLEY BLVD FALLBROOK, CA 92028	\$4.36	\$1.85
71006309264040366221	NANCY SPIKER 1855 RAINBOW VALLEY BLVD FALLBROOK, CA 92028	\$4.36	\$1.85
71006309264040366238	NICOLE SPIKER 19773 RAMONA TRAILS DRIVE RAMONA, CA 92065	\$4.36	\$1.85
71006309264040366245	SHERILL JOHNSTON 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366252	NICOLE SPIKER	\$4.36	\$1.85
		\$39.24	\$16.65

Number of Pieces by Sender 9	Number of Pieces Received	Postmaster (Name) Receiving Employee	Mail By (Name) Sending Employee <i>James Allen Jr.</i>
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I certify (or Declare) under penalty of perjury under the laws of the State of CA that the foregoing is true and correct

5-15-2007  
(Date)*[Signature]*  
(Declarant)

## Declaration of Mailing

Trustee's Sale No. 2006623

JAMES ALLEN, J.

, declare:

Date: 05/15/2007

Mailing: ~~Sale Mail~~Page: 2 *Suppl*

That I am an officer, agent, or employee of ACTION FORECLOSURE SERVICES, INC.

whose business address is 888 PROSPECT STREET, SUITE 201, LA JOLLA, CA 92037

I am over the age of eighteen years; On 05/15/2007 by Certified mail, enclosed in a sealed envelope with postage

fully prepaid, I deposited in the United States Post Office at SAN DIEGO

copies, a true and correct copy of which is hereunto attached and made part hereof, addressed to the following: *Proccs*

Number of Article	Name of Addressee, Street, and Post Office Address	Cert. Fee	R.R. Fee
	C/O THREE D ELECTRIC 1855 RAINBOW VALLEY BLVD FALLBROOK, CA 92028		
71006309264040366269	DENNY JOHNSTON 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366276	SHERILL JOHNSTON <i>OUT</i> 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366283	DEREK SPIKER 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366290	NICOLE SPIKER 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366306	MICHAEL SPIKER 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366313	NANCY SPIKER 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366320	SHERILL LYNNE JOHNSTON 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366337	DENNY JOHNSTON 1855 RAINBOW VALLEY BLVD.	\$4.36	\$1.85
		\$34.88	\$14.80

Number of Pieces by Sender	Number of Pieces Received	Postmaster (Name) Receiving Employee	Mail By (Name) Sending Employee
8			<i>James M. Allen Jr.</i>

I certify (or Declare) under penalty of perjury under the laws of the State of CA that the foregoing is true and correct

*5-15-2007*  
(Date)*[Signature]*  
(Declarant)

Trustee's Sale No. 2006623

I, JAMES ALLEN, Jr., declare:

Date: 05/15/2007

That I am an officer, agent, or employee of ACTION FORECLOSURE SERVICES, INC. whose business address is 888 PROSPECT STREET, SUITE 201, LA JOLLA, CA 92037

Mailing: Sale Mail

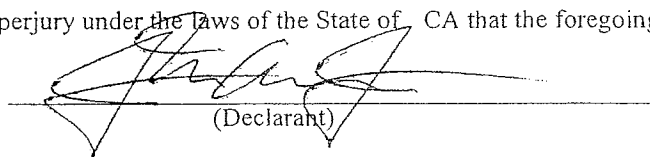
I am over the age of eighteen years; On 05/15/2007 by Certified mail, enclosed in a sealed envelope with postage fully prepaid, I deposited in the United States Post Office at SAN DIEGO notices, a true and correct copy of which is hereunto attached and made part hereof, addressed to the following:

Page: 3

Number of Article	Name of Addressee, Street, and Post Office Address	Cert. Fee	R.R. Fee
71006309264040366344	FALLBROOK, CA 92028  SHERILL JOHNSTON 1855 RAINBOW VALLEY BLVD. FALLBROOK, CA 92028	\$4.36	\$1.85
71006309264040366351	NICOLE SPIKER 1855 RAINBOW VALLEY BLVD. FALLBROOK, CA 92028	\$4.36	\$1.85
71006309264040366368	TARGET NATIONAL BANK C/O ESKANOS & ADLER DONALD R. STEBBINS/JANET L. BROWN KURTISS A. JACOBS/JEROME M. YALON 218950/84204 2325 CLAYTON ROAD CONCORD, CA 94520	\$4.36	\$1.85
71006309264040366375	STATE OF CALIFORNIA EMPLOYMENT DEVELOPMENT DEPARTMENT LIEN GROUP, MIC 92G P.O. BOX 826880 SACRAMENTO, CA 94280-0001	\$4.36	\$1.85
71006309264040366382	LAGUNA NIGUEL DISTRICT INTERNAL REVENUE SERVICE S:C:F:TS:W: AREA 14: GROUP 15 24000 AVILA ROAD, M/S 5905 LAGUNA NIGUEL, CA 92677-09608	\$4.36	\$1.85
71006309264040366399	INTERNAL REVENUE SERVICE STOP 5021/ADVISORY UNIT 1/RM 4062 300 N. LOS ANGELES STREET LOS ANGELES, CA 90012 ATTN: TECHNICAL SUPPORT TERRITORY MGR	\$4.36	\$1.85
		\$26.16	\$11.10

Number of Pieces by Sender	Number of Pieces Received	Postmaster (Name) Receiving Employee	Mail By (Name) Sending Employee
6			James Allen, Jr.

I certify (or Declare) under penalty of perjury under the laws of the State of CA that the foregoing is true and correct

5-15-2007  
(Date)
  
(Declarant)



## Declaration of Mailing

Trustee's Sale No. 2006623

I, JAMES ALLEN

, declare:

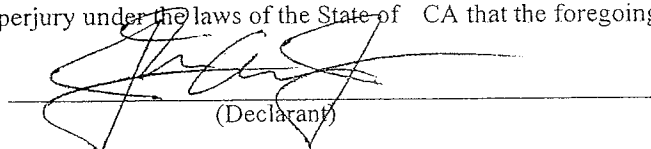
Date: 05/15/2007

Mailing: ~~Sale Mail~~Page: 4 *Surplus*  
*Proceeds*That I am an officer, agent, or employee of ACTION FORECLOSURE SERVICES, INC.  
whose business address is 888 PROSPECT STREET, SUITE 201, LA JOLLA, CA 92037I am over the age of eighteen years; On 05/15/2007 by Certified mail, enclosed in a sealed envelope with postage  
fully prepaid, I deposited in the United States Post Office at SAN DIEGO  
notices, a true and correct copy of which is hereunto attached and made part hereof, addressed to the following:

Number of Article	Name of Addressee, Street, and Post Office Address	Cert. Fee	R.R. Fee
71006309264040366405	INTERNAL REVENUE SERVICE P.O. BOX 145585 STOP 8420G CINCINNATI, OH 45250-5585	\$4.36	\$1.85
71006309264040366412	INDEPENDENT ELECTRIC SUPPLY, INC. C/O CRF SOLUTIONS P.O. BOX 1389 SIMI VALLEY, CA 93062	\$4.36	\$1.85
71006309264040366429	M AND D ELECTRIC INC. A CALIFORNIA CORPORATION 19773 RAMONA TRAILS RAMONA, CA 92065	\$4.36	\$1.85
71006309264040366436	LAGUNA NIGUEL DISTRICT/AREA 16 INTERNAL REVENUE SERVICE 24000 AVILA ROAD, STOP 5905 LAGUNA NIGUEL, CA 92677 ATTN: TECHNICAL SUPPORT TERRITORY MGR ADVISOR: K. RIPP 702-868-5063	\$4.36	\$1.85
71006309264040366443	CHARLES D. NACHAND 447 SOUTH ESCONDIDO BLVD. ESCONDIDO, CA 92025	\$4.36	\$1.85
		\$21.80	\$9.25

Number of Pieces by Sender	Number of Pieces Received	Postmaster (Name) Receiving Employee	Mail By (Name) Sending Employee
5			<i>James Allen, Jr.</i>

I certify (or Declare) under penalty of perjury under the laws of the State of CA that the foregoing is true and correct

*5-15-2007*  
(Date)  
(Declarant)

## **ATTACHMENT 11b**

## ATTACHMENT 11b

Petitioner alleges a potential conflict in the distribution of proceeds pursuant to Civil Code section 2924j(c).

Subsequent to a trustee's sale of real property, the proceeds from the sale must be distributed in accordance with Civil Code section 2924k. Pursuant to that statute any funds remaining after payment of the obligations secured by the deed of trust which is the subject of the trustee's sale are to be paid to satisfy any outstanding obligations secured by junior liens or encumbrances and then "to the trustor or the trustor's successor in interest. In the event the property is sold or transferred to another, to the vested owner of record at the time of the trustee's sale."

Petitioner conducted a Trustee's Sale of the real property located at vacant land in San Diego County on Julian Road East, Hwy. 78, under Assessors' Parcel Numbers 279-150-22 and 280-140-10 ("Subject Property"). The sale took place on May 4, 2007, under a Deed of Trust dated April 24, 2002, executed by:

Denny Johnston and Sherrill Johnston, husband and wife, as joint tenants as to an undivided 1/3 interest and Derek Spiker and Nicole Spiker, husband and wife, as joint tenants as to an undivided 1/3 interest and Michael Spiker and Nancy Spiker, husband and wife, as joint tenants as to an undivided 1/3 interest, as tenants in common.

The Deed of Trust was recorded on April 26, 2002, as Instrument No. 2002-0355530, in the official records of San Diego, California.

As of the date of the Trustee's Sale, the Subject Property was owned by the trustors, with each couple maintaining a 1/3 interest in the Subject Property. As of the date of the Trustees Sale, the following interests were recorded against the Subject Property, in the order of their priority:

1. A Deed of Trust in favor of Sherill Lynn Johnston, which was executed by Denny L. Johnston and which was recorded on February 3, 2005, as Instrument No. 2005-0092417 in the original amount of \$409,190.00.
2. An Abstract of Judgment in favor of Target National Bank against Derek M. Spiker, which was recorded on August 4, 2006, as Instrument Number 2006-0554180 in the original amount of \$5,110.44.
3. A Tax Lien in favor of the State of California Employment Development Department against Michael J. Spiker, which was recorded on January 6, 2006, as Instrument Number 2006-0013911 in the original amount of \$51,778.37.
4. A Tax Lien in favor of the Department of the Treasury - Internal Revenue Service against Michael J. Spiker, which was recorded on June 9, 2006, as Instrument

1322491.wpd

Number 2006-0411776 in the original amount of \$151,155.77.

5. A Tax Lien in favor of the Department of the Treasury - Internal Revenue Service against Nancy S. Spiker, which was recorded on June 9, 2006, as Instrument Number 2006-0411777 in the original amount of \$151,155.77.
6. An Abstract of Judgment in favor of Independent Electric Supply, Inc. against M and D Electric Supply Inc., which was recorded on November 13, 2006, as Instrument Number 2006-0804472 in the original amount of \$5,130.00.

The Petitioner received a claim to the excess proceeds of the Trustee's Sale from the Department of Treasury - Internal Revenue Service on or about May 23, 2007, in the amount of \$161,074.41, based on the tax liens against Michael J and Nancy S Spiker described in paragraphs 4 and 5 above. A true and correct copy of the claim and the supporting documents are attached hereto as **Exhibit A** and are incorporated herein by reference.

The Petitioner received a claim to the excess proceeds of the Trustee's Sale from the State of California Employment Development Department on or about June 4, 2007, in the amount of \$51,092.06, based on the tax lien against Michael Spiker described in paragraph 3 above. A true and correct copy of the claim and the supporting documents are attached hereto as **Exhibit B** and are incorporated herein by reference.

The Petitioner received a claim to the excess proceeds of the Trustee's Sale from Sherill Johnston through her attorney Charles D. Nachand on or about June 13, 2007. Sherill Johnston claims the entire amount of surplus proceeds based on the Deed of Trust executed by Denny L. Johnston, which is described in paragraph 1 above. A true and correct copy of the claim and the supporting documents are attached hereto as **Exhibit C** and are incorporated herein by reference.

The Petitioner did not receive a claim to the excess proceeds from Denny L. Johnston, the remaining four trustors under the foreclosing Deed of Trust, Target National Bank, or Independent Electric Supply, Inc.

A conflict exists because Sherill Johnston had a partial ownership interest in the Subject Property at the time she obtained the beneficial interest under the Deed of Trust executed by Denny L. Johnston. Moreover, it is unclear whether the Deed of Trust encumbers Denny Johnson's 1/6 interest in the Subject Property or both Denny and Sherill Johnstons' 1/3 interest in the Subject Property. Finally, Sherill's claim asserts she has a right to priority distribution for payments she made in furtherance of the partnership between all trustors regarding the development of the Subject Property. Petitioner is unable to determine the validity of Sherrill Johnston's claim to the entire amount of surplus funds, as it is unclear whether her lien under the Deed of Trust merged with her title.

Based on the foregoing, the Petitioner is unable to disburse the remaining surplus proceeds of the Trustee's Sale to the listed claimants, Trustor(s) and/or to the vested owner of record at the time fo the Trustee's Sale. The Petitioner is unable to determine which party is entitled to the remaining surplus funds.

Exhibit A



**DEPARTMENT OF THE TREASURY**  
**INTERNAL REVENUE SERVICE**  
 Washington, D.C. 20224

Name: Action Foreclosure Services, Inc.  
 Address: 888 Prospect St., Suite 201  
La Jolla, CA 92037  
 Trustee's Sale #: 2006623  
 Attn: James M. Allen, Jr. - Chief Financial Officer

T/P's Name: Michael J (9814) & Nancy S (3417) Spiker  
Derek M (7606) Spiker  
Vacant Land at Goose Valley Ln., Ramona  
 T/P's Address: Vacant Land at Rancho Vista Dr., Ramona

A Notice of Federal Tax Lien was filed in San Diego County, CA  
 for the tax liabilities listed below: Michael J & Nancy S Spiker

				Statutory Additions to: 05/04/2007		
Type of Tax	Tax Period	Identifying Number	Unpaid Balance	Interest	Penalty	Total
6672	6/30/02	xxx-xx-9814	\$ 16,093.33	\$ 2,018.44	\$ -	\$ 18,111.77
6672	12/31/02	xxx-xx-9814	\$ 16,871.08	\$ 2,060.85	\$ -	\$ 18,931.93
6672	3/31/03	xxx-xx-9814	\$ 30,649.82	\$ 3,743.93	\$ -	\$ 34,393.75
6672	6/30/03	xxx-xx-9814	\$ 30,024.23	\$ 3,667.52	\$ -	\$ 33,691.75
6672	9/30/03	xxx-xx-9814	\$ 29,426.57	\$ 3,594.51	\$ -	\$ 33,021.08
6672	12/31/03	xxx-xx-9814	\$ 6,286.80	\$ 767.94	\$ -	\$ 7,054.74
6672	3/31/04	xxx-xx-9814	\$ 9,807.08	\$ 1,197.96	\$ -	\$ 11,005.04
6672	6/30/04	xxx-xx-9814	\$ 4,334.84	\$ 529.51	\$ -	\$ 4,864.35
6672	6/30/02	xxx-xx-3417	\$ 16,093.33	\$ 2,018.44	\$ -	\$ 18,111.77
6672	12/31/02	xxx-xx-3417	\$ 16,871.08	\$ 2,060.85	\$ -	\$ 18,931.93
6672	3/31/03	xxx-xx-3417	\$ 30,649.82	\$ 3,743.93	\$ -	\$ 34,393.75
6672	6/30/03	xxx-xx-3417	\$ 30,024.23	\$ 3,667.52	\$ -	\$ 33,691.75
6672	9/30/03	xxx-xx-3417	\$ 29,426.57	\$ 3,594.51	\$ -	\$ 33,021.08
6672	12/31/03	xxx-xx-3417	\$ 6,286.80	\$ 767.94	\$ -	\$ 7,054.74
6672	3/31/04	xxx-xx-3417	\$ 9,807.08	\$ 1,197.96	\$ -	\$ 11,005.04
6672	6/30/04	xxx-xx-3417	\$ 4,334.84	\$ 529.51	\$ -	\$ 4,864.35
						\$ -
					Total:	

The following periods have been assessed but liens have not been filed: Derek M. Spiker

				Statutory Additions to: 05/04/2007		
Type of Tax	Tax Period	Identifying Number	Unpaid Balance	Interest	Penalty	Total
6672	6/30/02	xxx-xx-7606	\$ 16,093.33	\$ 1,992.07	\$ -	\$ 18,085.40
6672	12/31/02	xxx-xx-7606	\$ 16,871.08	\$ 2,035.43	\$ -	\$ 18,906.51
6672	3/31/03	xxx-xx-7606	\$ 30,649.82	\$ 3,697.80	\$ -	\$ 34,347.62
6672	6/30/03	xxx-xx-7606	\$ 30,024.23	\$ 3,622.32	\$ -	\$ 33,646.55
6672	9/30/03	xxx-xx-7606	\$ 29,426.57	\$ 3,550.22	\$ -	\$ 32,976.79
6672	12/31/03	xxx-xx-7606	\$ 6,286.80	\$ 758.48	\$ -	\$ 7,045.28
6672	3/31/04	xxx-xx-7606	\$ 9,807.08	\$ 1,183.19	\$ -	\$ 10,990.27
6672	6/30/04	xxx-xx-7606	\$ 4,334.84	\$ 522.97	\$ -	\$ 4,857.81
					Total:	

The amount needed to release the lien is \$ 161,074.41 . Total Owed: \_\_\_\_\_

A Certificate of Release of Federal Tax Lien will be issued immediately only if payment is made by: 06/15/2007

1. Cash; or 2. Certified or Cashier's check; or
3. Treasurer's check drawn on a national/ state bank or trust company; or 4. Money Order

If the payment is made in any other form, the release will be delayed for 30 days or until evidence is furnished that the funds have been transferred.

Please make payment payable to the United States Treasury and send it to:

**Internal Revenue Service, Advisory Unit**  
**24000 Avila Road, M/S. 5905**  
**Laguna Niguel, CA. 92677**  
 Attn: D. Chambers

If you have any questions, please contact the person's whose name and telephone number appear at the bottom of this letter.

Signature \_\_\_\_\_ Date: 0523/2007 Title: Group Manager, J. Carr Telephone # 949-389-4124

Exhibit B





Arnold Schwarzenegger, Governor

June 4, 2007

Reference 415-0757-5

Action Foreclosure Services  
 888 Prospect Street Suite 201  
 La Jolla, CA 92037  
 Attn: J. M. Allen Jr.

**EXCESS PROCEEDS FROM TRUSTEE SALE**

Trustor	Michael J. Spiker
Trustee Sale #	2006623
Property Address:	N/A
Date Sold	04-26-02

I, the undersigned claimant, request that I be awarded the excess proceeds resulting from the sale of the above referenced property.

I claim my status as a party of interest pursuant to Section 4675 of the California Revenue and Taxation Code.

I am a rightful claimant and base my status and right to file a claim on the following information and documentation:

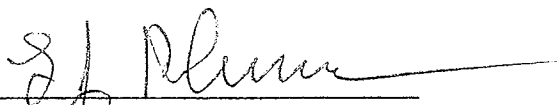
The Employment Development Department, State of California by its statutory power has created a lien for unpaid taxes against Michael J. Spiker San Diego County California.

<u>CERTIFICATE</u>	<u>RECORDED</u>	<u>BK-PG</u>	<u>TAXES</u>	<u>INT/PEN</u>	<u>BALANCE</u>
M377579	01-06-06	06-0013911	\$32,465.50	\$18,626.56	\$51,092.06
Assessment Date:	12-03-05	Quarters:	10-01-02 to 12-31-04		

CLAIM TOTAL: \$51,092.06

I affirm under penalty that the foregoing is true and correct.

Executed the 4<sup>th</sup> day of June 2007 in Sacramento, California.

A handwritten signature in dark ink, appearing to read 'L. Rebman', is written over a horizontal line.

L. Rebman (916) 464-2064  
Special Procedures Section

Employment Development Department  
800 Capitol Mall Mic 92 H  
Sacramento, CA 94230-6203

To ensure proper application of payments, please remit a copy of this letter.

## Exhibit C

**The Law Offices of Charles D. Nachand**

451 South Escondido Boulevard  
Escondido, California 92025-4813  
Telephone: (760) 741-2665  
Facsimile: (760) 741-0396

James M. Allen, Jr.  
Action Foreclosure Services  
888 Prospect Street, Suite 201  
La Jolla, California 92037

June 13, 2007

Re: Loan No. Spiker/Johnston; File No. 2006623 STATEMENT OF CLAIM

Dear Mr. Allen:

This letter with attachments constitutes the claim by Sherill Johnston for the surplus sales proceeds from the foreclosure sale and as referenced in your Notice to Potential Claimant. The following facts pertain to Ms. Johnston's claim for priority distribution of the surplus sales proceeds:

1. Sherill Johnston, Denny Johnston, Michael Spiker, Nancy Spiker, Derek Spiker, and Nicole Spiker were the record owners of fractional interests in the subject property.
2. Those individuals are members in a partnership arrangement created by oral agreement for the purchase and partial development of the property. The partnership has no outside obligations and no debts and no claim to any distribution of the surplus sales proceeds, except as to the requirements on advances identified herein (or as reserved outside of this demand below), and neither Ms. Johnston nor the partnership is liable for any outside or third party individual debts of the owners of the other fractional interests in the subject property.
3. During the ownership of the property, Ms. Johnston personally paid debts/advanced payment for the benefit of and relating to the property, with the knowledge of and at the request of the other partner/owners, which otherwise would have been paid by all of the participants, and were in excess of her personal share thereof relating to the property. She is due a priority distribution in reimbursement of those sums.
4. As part of the development of the property, an additional 20 acres of land were purchased (APN 286-182-19) in order to provide access to the subject property. Once that access had been granted, the 20 acre parcel was sold. As per the above (knowledge, notice and request) Ms. Johnston paid/advanced additional sums relating to that purchase and is entitled to priority reimbursement of that amount.
5. Ms. Johnston has obtained against Denny Johnston a money judgment, note and deed of trust secured by his interest in the subject property, which is more than sufficient to give her all right, title and interest to any distributions of any amount otherwise due to Denny Johnston. The judgment was obtained, and an abstract filed, prior to any other debts, liens or claims against Denny Johnston. Accordingly, because the amount of the judgment/note far exceeds any distribution to which Denny Johnston could be entitled, Ms. Johnson is entitled to direct payment of the one-sixth share of Denny Johnston before any payment to any other creditors of Denny Johnston.

Sherill Johnston claims the following amounts for distribution directly to her from the surplus sales proceeds which you are currently holding:

1. The amount of \$16,720.80 as a priority distribution, before payment of any other liens or debts to any person or entity or an any "share" or interest in the property as reimbursement of the sums she paid on debts of the property in excess of her liability for such debts as a one-sixth owner. Documentation of the amount claimed is attached as Exhibit A hereto.
2. The amount of \$8,420.89 as a priority distribution, before payment of any other liens or debts as reimbursement of the sums she personally paid with regard to the 20 acre parcel which was necessary for obtaining access for the subject property.
3. Her (Sherill Johnston) one-sixth share of the remainder of the surplus sales proceeds, after payment of the amounts listed in paragraphs 1 and 2 above, prior to the payment of any debts, liens or judgments of the other fractional owners.
4. The one-sixth share of Denny Johnston of the remainder of the surplus sales proceeds, after payment of the amounts listed in paragraphs 1 and 2 above, prior to the payment of any debts, liens or judgments of the other fractional owners. A copy of the Abstract of Judgment recorded on May 26, 2005, in the amount of \$409,190.00 is attached. The judgment accrues interest at the legal rate, currently the amount of \$92,749.73, for a total judgment of \$501,939.73. Copies of the Note and Deed of Trust secured by the subject property are attached.

If you intend to distribute the monies otherwise, demand is made that you provide notice in advance thereof in order to allow appropriate action on behalf of Sherill Johnston. The foregoing claims are submitted as accurate obligations and demands but may not represent the entire amount due, which further obligations are not waived to the extent that they exist outside of the scope of this demand. However, they are not made or asserted as to your sale proceeds.

On behalf of Sherill Johnston, this claim is delivered to you at the address in the Notice to Claimant no later than 30 days after the date of said notice.

Very truly yours,

LAW OFFICES OF CHARLES D. NACHAND



Charles D. Nachand

CDN/km  
Enclosures

I declare that the foregoing is true and correct to the best of my knowledge. Executed at Escondido, California on June 14, 2007.



Sherill Johnston

DO NOT DESTROY THIS NOTE: When paid, this note and the Deed of Trust must be surrendered to the First American Title Insurance Company with request for reconveyance.

## STRAIGHT NOTE

\$ 409,190.00 San Diego, California, January 07, 2005

On or before January 07, 2010 Letter Date,

for value received, Denny L. Johnston promises<sup>s</sup> to pay  
to Sherill Lynne Johnston

\_\_\_\_\_, or order,

at Beneficiary's Designation

the sum of FOUR HUNDRED NINE THOUSAND ONE HUNDRED AND NINETY DOLLARS AND no/100's Dollars,

With interest from \_\_\_\_\_ until paid, at the rate of \_\_\_\_\_

~~per/cent/per/annum~~, payable upon sale of property located at: Julian Rd/E. Hwy 78 including  
Parcel #s 279-150-22; 280-140-10; 286-181-01 and 286-182-19; as more particularly described  
in full legal descriptions attached to this note.

OR: January 07, 2010; whichever occurs first.

Should interest not be so paid, it shall thereafter bear like interest as the principal, but such unpaid interest so compounded shall not exceed an amount equal to simple interest on the unpaid principal at the maximum rate permitted by law. Should default be made in the payment of any installment of interest when due, then the whole sum of principal and interest shall become immediately due and payable at the option of the holder of this note. Should suit be commenced to collect this note or any portion thereof, such sum as the Court may deem reasonable shall be added hereto as attorney's fees. Principal and interest payable in lawful money of the United States of America. This note is secured by a certain DEED OF TRUST to the FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, as TRUSTEE.

  
Denny L. Johnston

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of

San Diego

} ss.

On

6-14-07

Date

before me,

Kristine A. Merel, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

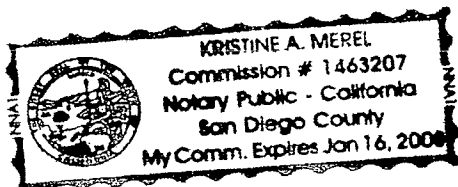
personally appeared

Sheeill

Name(s) of Signer(s)

☐ personally known to me☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document:

Letter to James M. Allen, Jr.

Document Date:

6-13-07

Number of Pages:

6

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

☐ Individual☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General☐ Attorney-in-Fact☐ Trustee☐ Guardian or Conservator☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

**RIGHT THUMBPRINT  
OF SIGNER**

Top of thumb here

Order No.  
Escrow No.  
Loan No.

**WHEN RECORDED MAIL TO:**

Sherill Lynne Johnston  
2625 Las Palmas Avenue  
Escondido, CA 92025

THE ORIGINAL OF THIS DOCUMENT  
WAS RECORDED ON FEB 03, 2005  
DOCUMENT NUMBER 2005-0092417  
GREGORY J. SMITH, COUNTY RECORDER  
SAN DIEGO COUNTY RECORDER'S OFFICE  
TIME: 9:58 AM

SPACE ABOVE THIS LINE

**DEED OF TRUST WITH ASSIGNMENT OF RENTS**  
(SHORT FORM)

This DEED OF TRUST, made January 07, 2005, between

DENNY L. JOHNSTON, herein called TRUSTOR,

whose address is 521 Pine Tree Place Escondido, CA 92025  
(Number and Street) (City) (State)

FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, herein called TRUSTEE, and

Sherill Lynne Johnston, herein called BENEFICIARY,

WITNESSETH: That Trustor grants to Trustee in trust, with power of sale, that property in the County of San Diego, State of California, consisting of 4-Parcels as follows: 279-150-22; 280-140-10; 286-181-01 & 286-182-19, County of SAN DIEGO, State of California, described as:

as more particularly described in full legal descriptions, attached hereto and made a part hereof.

together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits for the purpose of securing (1) payment of the sum of \$ \$ 409,190.00 with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof, (2) the performance of each agreement of Trustor incorporated by reference or contained herein and (3) payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B of the fictitious deed of trust recorded in Orange County August 17, 1964, and in all other counties August 18, 1964, in the book

(continued on reverse side)



and at the page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, namely:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	1288	556	Kings	858	713	Placer	1028	379	Sierra	38	187
Alpine	3	130-31	Lake	437	110	Plumas	166	1307	Siskiyou	506	762
Amador	133	438	Lassen	192	367	Riverside	3778	347	Solano	1287	621
Butte	1330	513	Los Angeles	T-3878	874	Sacramento	5039	124	Sonoma	2067	427
Calaveras	185	338	Madera	911	136	San Benito	300	405	Stanislaus	1970	56
Colusa	323	391	Marin	1849	122	San Bernardino	6213	768	Sutter	655	585
Contra Costa	4684	1	Marlposa	90	453	San Francisco	A-804	596	Tehama	457	183
Del Norte	101	549	Mendocino	667	99	San Joaquin	2855	283	Trinity	108	595
El Dorado	704	635	Merced	1660	753	San Luis Obispo	1311	137	Tulare	2530	108
Fresno	5052	623	Modoc	191	93	San Mateo	4778	175	Tuolumne	177	160
Glenn	469	76	Mono	69	302	Santa Barbara	2065	881	Ventura	2607	237
Humboldt	801	83	Monterey	357	239	Santa Clara	6626	664	Yolo	769	16
Imperial	1189	701	Napa	704	742	Santa Cruz	1638	607	Yuba	398	693
Inyo	165	672	Nevada	363	94	Shasta	800	633			
Kern	3756	690	Orange	7182	18	San Diego	SERIES 5	Book 1964, Page 149774			

shall inure to and bind the parties hereto, with respect to the property above described. Said agreements, terms and provisions contained in said subdivisions A and B, (identical in all counties, and printed on pages 3 and 4 hereof) are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein, and Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge therefor does not exceed the maximum allowed by law.

The undersigned Trustor, requests that a copy of any notice of default and any notice of sale hereunder be mailed to him at his address hereinbefore set forth.

STATE OF CALIFORNIA } ss.  
COUNTY OF SAN DIEGO  
On JANUARY 20 2005 before me,  
BERNADETTE G. TAGLE A NOTARY PUBLIC  
personally appeared DENNY L. JOHNSTON

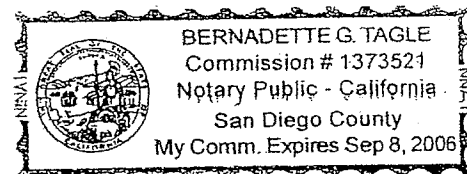
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Bernadette G. Tagle

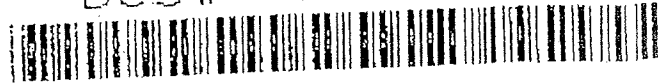
Denny L. Johnston  
Signature of Trustor



(This area for official notarial seal)

(continued on next page)

Doc # 2005-0443201



MAY 26, 2005 10:04 AM

OFFICIAL RECORDS  
 SAN DIEGO COUNTY RECORDER'S OFFICE  
 GREGORY J. SMITH, COUNTY RECORDER  
 FEES: 13.00  
 PAGES: 2 NOTICES: 1



EJ-001

TEL NO.:

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and address):

filed 489-8366

Recording requested by and return to:

Sherill Johnston  
 2625 Las Palmas Avenue  
 Escondido, CA 92025

☐ ATTORNEY FOR ☐ JUDGMENT CREDITOR ☐ ASSIGNEE OF RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

- ☐ HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101-3827  
☐ MADGE BRADLEY BLDG., 1409 4TH AVE., SAN DIEGO, CA 92101-3105  
☐ FAMILY COURT, 1555 6TH AVE., SAN DIEGO, CA 92101-3294  
☐ KEARNY MESA BRANCH, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123-1187  
☐ NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081-6643  
☐ EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941  
☐ RAMONA BRANCH, 1428 MONTECITO RD., RAMONA, CA 92065-5200  
☐ SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5649

PLAINTIFF: Denny Lee Johnston

DEFENDANT: Sherill Lynne Johnston

ABSTRACT OF JUDGMENT ☐ Amended

CASE NUMBER:

DN 132 150 SDD  
FOR COURT USE ONLY

1. The ☒ judgment creditor ☐ assignee of record applies for an abstract of judgment and represents the following:  
 a. Judgment debtor's

Name and last known address

Denny Lee Johnston  
 521 Pine Tree Place  
 Escondido, CA 92025

- b. Driver's license No. and state: N2331967 CA ☐ Unknown  
 c. Social security No.: 545-02-1358 ☐ Unknown  
 d. Summons or notice of entry of sister-state judgment was personally served or mailed to (name and address):

- e. ☐ Original abstract recorded in this county:  
 (1) Date:  
 (2) Instrument No.:

- f. ☐ Information on additional judgment debtors is shown on page two.

Date: 5/19/05  
 Sherill Johnston  
 (TYPE OR PRINT NAME)

*Sherill Johnston*  
 (SIGNATURE OF APPLICANT OR ATTORNEY)

2. a. ☒ I certify that the following is a true and correct abstract of the judgment entered in this action.  
 b. ☐ A certified copy of the judgment is attached.

3. Judgment creditor (name and address):

Sherill Lynne Johnston  
 2625 Las Palmas Avenue, Escondido CA 92025

1. Judgment debtor (full name as it appears in judgment):

Denny Lee Johnston

5. a. Judgment entered on (date): 3/9/05

b. Renewal entered on (date):

This abstract issued on (date):

MAY 24 2005

6. Total amount of judgment as entered or last renewed: \$ 409,190.00

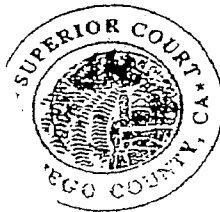
7. ☐ An ☐ execution lien ☒ attachment lien is endorsed on the judgment as follows:

a. Amount: \$ 409,190.00

b. In favor of (name and address):

Sherill Lynne Johnston  
 2625 Las Palmas Avenue  
 Escondido, CA 92025

8. A stay of enforcement has  
 a. ☒ not been ordered by the court.  
 b. ☐ been ordered by the court effective until (date):

9. ☐ This judgment is an installment judgment.

Mandatory Use  
 of California  
 any 1, 2003)

ABSTRACT OF JUDGMENT (CIVIL)

Clerk, by

T. ROBERTS

Deputy

Page 1 of  
 55 488.48  
 674, 700.15

## **ATTACHMENT 13**

1 JOHN D. DUNCAN (CA SBN 179560)  
PETER J. SALMON (CA SBN 174386)  
2 LAUREL I. HANDLEY (CA SBN 231249)  
PITE DUNCAN, LLP  
3 525 E. Main Street  
P.O. Box 12289  
4 El Cajon, CA 92022-2289  
Telephone: (619) 590-1300  
5 Facsimile: (619) 590-1385

6 Attorneys for Petitioner Action Foreclosure Services, Inc.

7  
8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF SAN DIEGO - NORTH COUNTY

10 IN RE:

11 VACANT LAND LOCATED IN SAN  
12 DIEGO COUNTY APNS 279-150-22 AND  
13 280-140-10

Case No.:

PROOF OF SERVICE

14  
15 I, the undersigned, declare: I am, and was at the time of service of the papers herein referred  
16 to, over the age of 18 years, and not a party to this action. My business address is 525 East Main  
Street, El Cajon, California 92020.

17 On December 12, 2007, I served the following documents:

- 18 1. PETITION AND DECLARATION REGARDING UNRESOLVED CLAIMS  
AND DEPOSIT OF UNDISTRIBUTED SURPLUS PROCEEDS OF  
19 TRUSTEE'S SALE  
20 2. NOTICE OF PETITION TO SUPERIOR COURT TO DEPOSIT SURPLUS  
FUNDS  
21 3. CIVIL CASE COVER SHEET  
22 4. ORDER TO DEPOSIT SURPLUS FUNDS

23 on the parties in this action addressed as follows:

24 Denny Johnston  
25 C/O Taylor Pipeline, Inc.  
26 2625 Las Palmas Avenue  
Escondido, CA 92025

Denny Johnston  
44913 Silver Rose Street  
Temecula, CA 92592

27 Derek Spiker  
1855 Rainbow Valley Blvd.  
28 Fallbrook, CA 92028

Derek Spiker  
19773 Ramona Trails Drive  
Ramona, CA 92065

1	Michael Spiker 1855 Rainbow Valley Blvd. 2	Nancy Spiker 1855 Rainbow Valley Blvd. Fallbrook, CA 92028
3	Nicole Spiker 19773 Ramona Trails Drive 4	Sherill Johnston 2625 Las Palmas Avenue Escondido, CA 92025
5	Nicole Spiker C/O Three D Electric 6	Denny Johnston 2625 Las Palmas Avenue Escondido, CA 92025
7	1855 Rainbow Valley Blvd Fallbrook, CA 92028	
8	Derek Spiker 2625 Las Palmas Avenue Escondido, CA 92025	Nicole Spiker 2625 Las Palmas Avenue Escondido, CA 92025
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10	Michael Spiker 2625 Las Palmas Avenue Escondido, CA 92025	Nancy Spiker 2625 Las Palmas Avenue Escondido, CA 92025
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12	Sherill Lynne Johnston 2625 Las Palmas Avenue Escondido, CA 92025	Denny Johnston 1855 Rainbow Valley Blvd. Fallbrook, CA 92028
13		
14	Sherill Johnston 1855 Rainbow Valley Blvd. Fallbrook, CA 92028	Nicole Spiker 1855 Rainbow Valley Blvd. Fallbrook, CA 92028
15		
16	Target National Bank C/O Eskanos & Adler Donal R. Stebbins/Janet L. Brown	State of California Employment Development Department Lien Group, MIC 92G
17	Kurtiss A. Jacobs/Jerome M. Yalon 218950/84204	P.O. Box 826880 Sacramento, CA 94280-0001
18	2325 Clayton Road Concord, CA 94520	
19		
20	Laguna Niguel District Internal Revenue Service S:C:F:TS:W:AREA 14:GROUP 15	Internal Revenue Service Stop 5021/ Advisory Unit 1/RM 4062 300 N. Los Angeles Street Los Angeles, CA 90012
21	24000 Avila Road, M/S 5905 Laguna Niguel, CA 92677	Attn: Technical Support Territory Mgr.
22		
23	Internal Revenue Service Post Office Box 145585 Stop 8420G Cincinnati, OH 45250	Independent Electric Supply, Inc. C/O CRF Solutions Post Office Box 1389 Simi Valley, CA 93062
24		
25	M and D Electric Inc. A California Corporation 19773 Ramona Trails 26	Laguna Nigel District/Area 16 Internal Revenue Service 24000 Avila Road, Stop 5905 Laguna Nigel, CA 92677
27	Ramona, CA 92065	Attn: Technical Support Territory Mgr Advisor: K. Ripp 702-868-5063
28	Charles D. Nachand The Law Offices of Charles D. Nachand 447 South Escondido Blvd. Escondido, CA 92025	

1 Charles D. Nachand  
2 The Law Offices of Charles D. Nachand  
3 451 South Escondido Boulevard  
4 Escondido, CA 92025-4813

Employment Development Department  
800 Capitol Mall Mic 92 H  
Sacramento, CA 94230

5 X **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above. I am  
6 readily familiar with the firm's practice of collection and processing correspondence for  
7 mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course  
8 of business. I am aware that on motion of party served, service is presumed invalid if postal  
9 cancellation date or postage meter date is more than one day after date of deposit for mailing  
10 in affidavit.

11        **BY CERTIFIED MAIL:** I placed a true copy in a sealed envelope addressed as indicated  
12 above via certified mail, return receipt requested.

13        **BY FACSIMILE:** I personally sent to the addressee's facsimile number a true copy of the  
14 above-described document(s). I verified transmission with a confirmation printed out by the  
15 facsimile machine used. Thereafter, I placed a true copy in a sealed envelope addressed and  
16 mailed as indicated above.

17        **BY FEDERAL EXPRESS:** I placed a true copy in a sealed Federal Express envelope  
18 addressed as indicated above. I am familiar with the firm's practice of collection and  
19 processing correspondence for Federal Express delivery and that the documents served are  
20 deposited with Federal Express this date for overnight delivery.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing  
22 is true and correct.

23 Executed on December 12, 2007, at El Cajon, California.

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25 ROSALYNN B. SALARDA  
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Exhibit 2

FILED  
Clerk of the Superior Court

DEC 27 2007

By: Josie Castillo

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO - NORTH COUNTY

IN RE:

VACANT LAND LOCATED IN SAN  
DIEGO COUNTY APNS 279-150-22 AND  
280-140-10

Case No.: 37-2007-00080647-CU-PT-NC

UnLimited Jurisdiction

NOTICE OF HEARING SET BY THE  
CLERK OF THE COURT PURSUANT TO  
CIVIL CODE SECTION 2924j(d)

To all interested persons, please take notice that SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO - NORTH COUNTY, has set a hearing to determine disbursement of  
surplus funds on deposit, that will be heard on 3-21-08 at 1:30pm  
fe  
in Department 12 in Superior Court of California, COUNTY OF SAN DIEGO -  
NORTH COUNTY, located at 325 South Melrose, Vista, CA 92083.

All potential claimants shall file and serve their claim to the surplus funds within 15 days of  
the hearing pursuant to Civil Code section 2924j(d), which provides in pertinent part:

Within 90 days after deposit with the clerk, the court shall consider all claims filed  
at least 15 days before the date on which the hearing is scheduled by the court, the  
clerk shall serve written notice of the hearing by first-class mail on all claimants  
identified in the trustee's declaration at the addresses specified therein.

Dated: DEC 27 2007

J.C. CASTILLO  
CLERK OF THE SUPERIOR COURT



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Exhibit 3

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
NORTH COUNTY  
MINUTE ORDER

Date: 03/21/2008

Time: 01:30:00 PM

Dept: N-12

Judicial Officer Presiding: Judge Adrienne A. Orfield

Clerk: Monique Rodriguez

Bailiff/Court Attendant: Ladd, Andrea

ERM:

Reporter: , Nuttall, Terri

Case Init. Date: 12/26/2007

Case No: 37-2007-00080647-CU-PT-NC

Case Title: Petition of Action Foreclosure Services, Inc.

Case Category: Civil - Unlimited

Case Type: Petitions - Other

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Event Type: Hearing on Petition

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**Appearances:**

Respondent Sherill Johnston present.

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All parties submit(s) on the Court's tentative ruling.

The Court confirms the tentative ruling as follows:

**TENTATIVE RULING:**

:  
This court, having received the Notice of Removal of State Action to Federal Court brought by the United States Attorney's Office, hereby effects the requested removal and directs the clerk of the Superior Court to prepare and transmit a copy of all pleadings in this matter to the United States District Court.

IT IS SO ORDERED.

The minutes are the order of the Court. No formal order is required.

<p style="text-align: center;"><b>Superior Court of California</b>  <b>County of San Diego</b></p> <p style="text-align: center;"><b>SIGN-IN SHEET</b></p>	Calendar No.: 0 <i>9</i>
	Court Use Only

CASE: 37-2007-00080647-CU-PT-NC - Petition of Action Foreclosure Services, Inc.

EVENT TYPE: Hearing on Petition

EVENT DATE/TIME: 03/21/2008 1:30 pm

DEPARTMENT: N-12

JUDGE: Adrienne A. Orfield

ATTORNEY/PARTICIPANT NAME	CLIENT NAME	SIGNATURE
HANDLEY, LAUREL I	Action Foreclosure Services, Inc. [PET]	
NACHAND, CHARLES D	Johnston, Sherill [RSP]	<i>Sherill Johnston</i>

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Exhibit 4

1 THE LAW OFFICES OF CHARLES D. NACHAND  
Charles D. Nachand (Bar No. 72068)  
2 Demetri Lahanas, (Bar No. 185583)  
Richard B. Hudson (Bar No. 140883)  
3 451 South Escondido Boulevard  
Escondido, California 92025  
4 (760) 741-2665 (Telephone)  
(760) 741-0396 (Facsimile)  
5

6 Attorneys for Sherill Johnston  
7  
8

9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

11 IN RE: ) Case No.: 3:08-CV-00455-W-BLM  
12 VACANT LAND LOCATED IN SAN )  
DIEGO COUNTY APNS 279-150-22 AND ) **DECLARATION AND**  
13 280-140-10 ) **AUTHORIZATION OF SHERILL**  
14 \_\_\_\_\_ ) **JOHNSTON**

15  
16 I, SHERILL JOHNSTON, declare as follows:

17 1. I am the respondent and claimant in the State Court and Federal action captioned above,  
18 concerning the vacant land, and surplus funds on foreclosure sale.

19 2. I have agreed to and have authorized my attorney to enter into a Stipulation and to  
20 accept a pay out of \$50,761.74.

21 3. I understand that it is unlikely that there is any other accrued funds, interest or other  
22 sums, and that I have agreed to accept the \$50,761.74 as the payout if there are no further funds.

23 4. I understand that the Internal Revenue Service is receiving \$25,380.87. I understand  
24 that Action Foreclosure Services, Inc. has already taken its fees and costs out, and that I will not be  
25 liable for other's fees and costs, and I will not have my fees and costs paid by anyone else.

26 5. I understand that the USA - IRS is not releasing their lien claim as to the Spikers on any  
27 other property other than the two parcels that were sold at foreclosure, and the surplus proceeds of  
28 which are the subject of this action.

6. I have authorized the forwarding of the funds care of my attorney's client trust account at his address.

Executed this 6 day of May, 2008 at Escondido, California. If called as a witness in this action, I could competently declare thereto. I declare under penalty of perjury that the foregoing is true and correct.

*Sherill Johnston*  
Sherill Johnston